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10/067,073

02/04/2002

Cindy A. Burklow

4066

7590

05/06/2005

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EXAMINER

O'CONNOR, GERALD J

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/067,073

Applicant(s)

Burklow et al.

Examiner

O'Connor

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on February 4, 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20020204</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McHenry et al. (US 2002/0016746), in view of discountcoffee.com.

McHenry et al. disclose a process for making available customized products by a product supplier thereof for online customizing products, online ordering the customized products, and online purchasing the customized products through a communications network made accessible to a customer therefor, the customized products being made available based upon a selection by the product supplier of such customized products of a plurality of key parameters for customizing the products therewith the customer selects parameters from such plurality of key parameters to customize the products provided by the product supplier whereby the customer customizes the products according to the customer's preferences thereby the product supplier produces the customized products according to the parameters selected by the customer from the plurality of the key parameters provided by the product supplier and for querying the customer as to the customer's desire to customize, to order, and to purchase for at least one of the selected

customized products comprising: identifying by the product supplier the key parameters offered to the customer for customizing the sweetener products; placing the plurality of key parameters in electronic form in a database; making the database and the electronic form of the plurality of key parameters for customizing the products supplied by the product supplier accessible through the communications network to any customer for such products having access to the network; connecting by the customer through the communications network to the database; querying by the product supplier through the communications network as to whether the customer for the sweetener products desires to customize with the product supplier for at least one product; communicating by the customer through the communications network to the product supplier the customer's desire to customize with the product supplier at least one product; requesting by the product supplier through the communications network to the customer for the customer's choice of parameters from the plurality of key parameters for customizing the products supplied by the product supplier; communicating by the customer through the communications network to the product supplier the customer's choice of parameters from the plurality of key parameters for customizing of the products supplied by the product supplier; requesting by the product supplier through the communications network to the customer for additional specific information not listed in the plurality of key parameters for customizing the products supplied by the product supplier for subsequent assessment by the product supplier of such specific information; communicating by the customer through the communications network to the product supplier the customer's specific information that was requested by the product supplier; communicating by the product supplier through the communications network to the customer the product supplier's

response about the assessment on the specific information from the customer that was requested by the product supplier; identifying by the product supplier of the customer's choice of parameters from the plurality of key parameters for customizing the products supplied by the product supplier; communicating by the product supplier through the communications network to the customer the identification of the customer's choice of parameters for customizing the products and any specific information provided by the customer to customize the products; querying by the product supplier through the communications network as to whether the customer for the customized products desired to order from the product supplier for at least one of the customized products identified by the product supplier; communicating by the customer for the customized products through the communications network the customer's desire to order from the product supplier for at least one of the customized products identified by the product supplier; querying by the product supplier through the communications network as to whether the customer for the customized products desired to purchase from the product supplier for at least one of the customized products identified by the product supplier; communicating by the customer for the customized products through the communications network the customer's desire to purchase from the product supplier for at least one of the customized products identified by the product supplier; acknowledging by the product supplier through the communications network the customer's desire to order and to purchase from the product supplier for at least one of the customized products identified by the product supplier, but the customized products sold to the customer in the method of McHenry et al. are motor oils and motor oil additives, rather than sweeteners.

However, discountcoffee.com discloses a similar method of selling (non-customized) products over the Internet, and the products are indeed sweetener products.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of McHenry et al. of selling customized products, so as to sell sweetener products instead of motor oil products, in accordance with the teachings of discountcoffee.com, in order to generate additional sales by selling a greater range of products.

Further details of the dependent claims would all be either inherent in the described combination, or else self-evident or well known, hence obvious, to one of ordinary skill in the art, such that it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have made any necessary modifications, merely as a matter of design choice, since so doing could be performed by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to the disclosure.
4. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is (571) 272-6787, and whose facsimile number is (571) 273-6787.

The examiner can normally be reached weekdays from 9:30 to 6:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski, can be reached at (571) 272-6788.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (703) 872-9306.** Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC

May 2, 2005

A handwritten signature in black ink, followed by the date "(5-2-05)" in parentheses.

Gerald J. O'Connor  
Primary Examiner  
Group Art Unit 3627